

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

WILLIAM C. BLOOMQUIST,     )  
  )  
                          Plaintiff     )  
  )  
v.                                     ) Civil No. 02-137-P-H  
  )  
TOWN OF BRIDGTON, et al.,    )  
  )  
                          Defendants    )

**RECOMMENDED DECISION ON ROBERT WOODWARD’S  
MOTION FOR SUMMARY JUDGMENT**

In this action William Bloomquist is seeking remedy against multiple defendants for alleged interference with employee and employer rights, defamation, assault and battery, malicious prosecution, intentional infliction of emotional distress, negligent infliction of emotional distress, and perjury. (Docket No. 1-A.) In this recommended decision I address an unopposed motion for summary judgment filed by one of the defendants, Robert Woodward. (Docket No. 40.) I recommend that the Court **GRANT** Woodward’s motion as he is entitled to judgment as a matter of law.

*Nature of Bloomquist’s Civil Action*

The events underlying this suit turn on the acrimonious relationship between Bloomquist, who resides in Maine, and Scott Floccher and Susan Benfield, who reside in New Hampshire. Bloomquist complains that Floccher and Benfield, along with various other private individuals and public employees, have violated his rights and injured him in a series of interactions. A key event underlying this dispute is a hearing, apparently on Floccher’s harassment complaint against Bloomquist, held in the Bridgton, Maine

District Court on April 11, 2001, at which Bloomquist, his employer, attorney Douglas Hendrick, Floccher, and Benfield were present and during which violence erupted and Floccher allegedly assaulted Bloomquist. Bloomquist alleges that Woodward conspired with Floccher and Benfield and faults him for statements made and actions taken on behalf of Floccher and Benfield.

### ***Summary Judgment Standard***

Woodward is entitled to summary judgment only "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that [Woodward] is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c). A fact is material if its resolution would "affect the outcome of the suit under the governing law," Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986), and the dispute is genuine "if the evidence is such that a reasonable jury could return a verdict for the nonmoving party," id. I review the record in the light most favorable to Bloomquist, who, although silent, I take as an opponent to summary judgment, and I indulge all reasonable inferences in his favor. See Feliciano De La Cruz v. El Conquistador Resort & Country Club, 218 F.3d 1, 5 (1st Cir. 2000). However, the fact that Bloomquist has failed to place a single one of Woodward's facts in dispute means that I deem the properly supported facts as admitted. See Faas v. Washington County, \_\_\_ F. Supp. 2d \_\_\_, 2003 WL 2013101, \*2 (D. Me. May 2, 2003). Bloomquist's pro se status does not relieve him of his duty to respond, see Parkinson v. Goord, 116 F.Supp.2d 390, 393 (W.D.N.Y 2000) ("[P]roceeding pro se does not otherwise relieve a litigant of the usual requirements of summary judgment"), nor alter

the Court's obligation to fairly apply the rules governing summary judgment proceedings, see Fed. R. Civ. P. 56; Dist. Me. Loc. R. Civ. P. 56.

### ***Material Facts***

Woodward is the proprietor of the Highland Lake Resort. (Def. Woodward's S.M.F. ¶ 2.) Susan Benfield was employed by Woodward and Woodward allowed Benfield to stay in an apartment on the resort premises. (Id. at ¶ 3.) Floccher moved into Benfield's apartment in September 2000. (Id.) Woodward's first knowledge of Bloomquist was when Floccher told Woodward that Bloomquist was involved with Floccher's ex-wife and was participating in Floccher's divorce proceedings. (Id. ¶ 4.) Bloomquist would fax documents to the resort's fax machine. (Id.) Although Floccher would occasionally use the resort's printer, Woodward did not have knowledge of the progress of Floccher's divorce proceedings. (Id.)

On a couple of occasions prior to April 11, 2001, Woodward accompanied Floccher to the police station and the courtroom. (Id. ¶ 5.) Woodward believed that Floccher was trying to work his way through a complicated family situation in a legal fashion. (Id.) As a former police officer Woodward always encouraged Floccher to work within the system; for example, when Floccher told Woodward that he heard that there was a warrant for his own arrest Woodward gave Floccher a ride to the police station. (Id.)

On April 11, 2001, the date of the assault, Floccher had a court appearance and that morning Floccher was printing related documents in the resort office. (Id. ¶ 6.) After this printing, Floccher went upstairs to the Benfield apartment. (Id.) An officer came to the resort and asked if Floccher was available (id.); he did not indicate that there

was a warrant for Floccher's arrest (id. ¶ 12.) While the officer waited, Woodward's wife called up to the apartment and was told by Benfield that Floccher had left for court. (Id. ¶ 6.) Woodward relayed this information to the officer. (Id.)

Woodward did not attend court on April 11. (Id.) Aside from the affidavit attached to this motion, Woodward never testified with respect to Bloomquist in any trial, hearing, or court proceeding. (Id. ¶ 10.) Woodward never had the impression that Floccher would assault anyone on April 11 (id. ¶ 7); nor was he present when Bloomquist alleges that Floccher assaulted him (id. ¶ 11). The assault occurred at the conclusion of a protection from harassment hearing involving Floccher and Bloomquist at a time that Floccher was under arrest. (Id. ¶ 13.)

Woodward has never: spoken to Douglas Hendrick; phoned Bloomquist's place of business or residence; made threats against, harassed, or assaulted Bloomquist; or met or spoken with Bloomquist. (Id. ¶ 8.) Woodward never encouraged any of the other defendants in this action to physically attack Bloomquist, give false testimony, or defame Bloomquist. (Id. ¶ 9.) Woodward was not a state actor or involved with any state actor at the time relevant to this action. (Id. ¶ 10.)

### *Discussion*

In my view Woodward has correctly identified the portions of the complaint that potentially involve him. While there are no direct allegations that Woodward assaulted, defamed, or falsely testified against Bloomquist, you can read the allegations to be that Woodward conspired with the other defendants whom Bloomquist claims assaulted, defamed, or falsely testified against Bloomquist. (Complaint ¶¶ 4, 5, 7.) There is a specific allegation that Woodward provided Benfield and Floccher with a "safe place"

from which to execute their conspiracy and that Woodward falsely told the officer that Floccher was not at home, while knowing that Floccher was at home and that there was a warrant for his arrest. (Id. ¶ 6) Bloomquist alleges that this concealment allowed Floccher to carry out the planned assault. (Id.)<sup>1</sup>

I also agree with Woodward that the only way that Bloomquist could hold him liable is if he could demonstrate that Woodward conspired with Floccher and/or Benfield in legally wronging Bloomquist.

Bloomquist pleads conspiracy with respect to his rights under the United States Constitution and under the common law. An indispensable element of Bloomquist's 42 U.S.C. § 1983 conspiracy claim against Woodward is the existence of an agreement between the parties to inflict a wrong or injury upon Bloomquist in violation of Bloomquist's civil rights. See Earle v. Benoit, 850 F.2d 836, 844 (1st Cir.1988). The same holds true for Bloomquist's common law conspiracy claims: "To charge all of the defendants, joint action must be proved." Cohen v. Bowdoin, 288 A.2d 106, 111 (Me. 1972) (quoting Garing v. Fraser, 76 Me. 37, 41 (1884), emphasis added); see also id. at 11-12 (quoting "common plan and design" language from the third edition of Prosser's Law of Torts); Tidler v. Eli Lilly and Co., 851 F.2d 418, 421 (D.C. Cir.1988) ("Of course, the premise for [conspiracy] liability ... is that the defendant, either expressly or tacitly, agreed with another to pursue 'a common plan or design to commit a tortious act'

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<sup>1</sup> There are allegations that "Defendants" communicated false statements to Bloomquist's employer, Douglas Hendrick, (id. ¶ 5, 10, 11,12) but reading the complaint as a whole, the use of "Defendants" appears to be a designation of Floccher and Benfield as the actors. If Bloomquist intended otherwise, the undisputed material fact that Woodward had no communication or contact with Hendrick whatsoever buffers Woodward from the gyroscope of these claims. The same holds true for any related defamation or false testimony allegations; there are no facts in this record that Woodward made any statements about Bloomquist or gave any evidence pertaining to him before preparing the affidavit for this summary judgment motion.

which plaintiffs cannot show in this case,” quoting Prosser and Keeton on TORTS, § 46, at 323 (5th ed. 1984)).

The undisputed facts are that Woodward, while assisting Floccher and Benfield in a neighborly fashion, was little more than a bystander to the tempest brewing between Floccher and Benfield and Bloomquist. He did no more than provide accommodations for his employee Benfield, and, in time, her boyfriend, Floccher. He was aware of Floccher’s divorce proceedings and allowed Floccher to receive incoming faxes and use his printer. While he learned from Floccher that Bloomquist was involved with Floccher’s ex-wife, Woodward was not aware of the details and progress of the divorce proceedings. He did accompany Floccher to the police station and courthouse to facilitate Floccher’s efforts to get his legal affairs in order. On the day of the assault Woodward was not aware that there was a warrant for Floccher’s arrest and, when the officer requested to see Floccher, Woodward first thought that Floccher was still in Benfield’s apartment. Woodward was in no way attempting to conceal Floccher from the authorities and had no reason to think that Floccher would assault anyone that day.

Drawing all reasonable inferences in Bloomquist’s favor, I cannot but conclude on this record that Woodward took no part in any agreement, plan, or design to violate Bloomquist’s Constitutional or common law rights. Accordingly, it is my view that Woodward is entitled to summary judgment.

### ***Conclusion***

For these reason I recommend that the Court **GRANT** Woodward’s unopposed motion for summary judgment.

NOTICE

A party may file objections to those specified portions of a magistrate judge's report or proposed findings or recommended decisions entered pursuant to 28 U.S.C. § 636(b)(1)(B) for which *de novo* review by the district court is sought, together with a supporting memorandum, within ten (10) days of being served with a copy thereof. A responsive memorandum shall be filed within ten (10) days after the filing of the objection.

Failure to file a timely objection shall constitute a waiver of the right to *de novo* review by the district court and to appeal the district court's order.

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Margaret J. Kravchuk  
U.S. Magistrate Judge

**STANDARD, BANGOR**

May 16, 2003.

**U.S. District Court  
District of Maine (Portland)  
CIVIL DOCKET FOR CASE #: 2:02-cv-00137-DBH  
Internal Use Only**

BLOOMQUIST v. BRIDGTON, TOWN OF, et al

Assigned to: JUDGE D. BROCK HORNBY

Referred to: MAG. JUDGE MARGARET J.

KRAVCHUK

Demand: \$0

Lead Docket: None

Related Cases: None

Case in other court: Cumberland Superior, 02-cv-250

Cause: 28:1331 Federal Question: Other Civil Rights

Date Filed: 06/20/02

Jury Demand: Plaintiff

Nature of Suit: 440 Civil Rights:

Other

Jurisdiction: Federal Question

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